

EL CERRITO CITY COUNCIL EL CERRITO REDEVELOPMENT AGENCY

MINUTES

SPECIAL CONCURRENT CITY COUNCIL/REDEVELOPMENT AGENCY MEETING

Monday, April 20, 2009 – 7:30 p.m.

City Council Chambers

SPECIAL CITY COUNCIL CLOSED SESSION

Monday, April 20, 2009 – Immediately Following the Concurrent City Council/Redevelopment

Agency Meeting

Hillside Conference Room

SPECIAL REDEVELOPMENT AGENCY MEETING

Monday, April 20, 2009 – Immediately Following the Special City Council Closed Session Meeting

Hillside Conference Room

Meeting Location

El Cerrito City Hall

10890 San Pablo Avenue, El Cerrito

Sandi Potter – Mayor

Mayor Pro Tem Janet Abelson

Councilmember Greg Lyman

Councilmember/Agency Chair William C. Jones, III

Councilmember/Agency Vice-Chair Ann Cheng

ROLL CALL

Present: Councilmembers/Agency Members Abelson, Jones (Agency Chair), Lyman
and Mayor Potter.

Absent: Councilmember/Agency Vice-Chair Cheng.

7:30 p.m.

CONVENE SPECIAL CONCURRENT CITY COUNCIL/REDEVELOPMENT AGENCY MEETING

**Mayor Potter convened the Special Concurrent City Council/Redevelopment Agency meeting at
7:37 p.m.**

1. **PLEDGE OF ALLEGIANCE TO THE FLAG** was led by Councilmember Jones.
2. **COUNCIL / STAFF COMMUNICATIONS**

Mayor Potter announced with profound sadness, the unfortunate tragic passing of Bruce King, the City's Maintenance and Engineering Services Manager, on April 17, 2009. Mr. King worked for the City of El Cerrito for over 14 years in the Public Works Department and will be missed by everyone. The family will hold a celebration of Mr. King's life in the City of San Pablo at Maple Hall on May 2 at 3:00 p.m. Mayor Potter asked the Council to approve a revised Earth Day proclamation (Item 5D) declaring Earth Day, April 25, 2009 in remembrance of Mr. King, an event that Mr. King had been involved with for many years.

Mayor Potter also announced that City Manager Hanin has withdrawn Consent Calendar Item 5E, the Two Year CALPers Service Credit, and postpone the item to a meeting later in the fiscal year during budget discussions with the City Council and the Financial Advisory Board.

Councilmember Abelson expressed her appreciation for Mr. King, who was inclusive of everyone and their ideas, particularly his efforts in planning and participating in Earth Day in the past and suggested that those interested in honoring Mr. King consider volunteering in this year's Earth Day efforts, including planting trees. Email green@el-cerrito.ca.us for more information.

3. **ORAL COMMUNICATIONS FROM THE PUBLIC**

Ken Berndt, El Cerrito, commented on the Cerrito Theater Lease, particularly the provision relating to payment of real property taxes and asked where the authorization came from for the City's payment of delinquent tax payments.

Peter Loubal, El Cerrito, criticized the placement of the Cerrito Theater as a late closed session item this evening and stated that it will be difficult to legalize an illegal payment, referenced Cerrito Theater subsidies, reported on the economic climate of movie theaters and added that although the Theater was not a good economic decision the Theater should not be boarded up.

4. **PRESENTATIONS**

A. Environmental Quality Committee Workplan Status – *Presentation by Ronald Egherman, Chair, Environmental Quality Committee.*

Action: Presentation heard.

B. City Hall Designation as a Green Business – *Presentation by Claudia Pingatore, Contra Costa County Green Business Program.*

Action: Presentation heard.

C. Kids for the Bay Program – *Presentation by Krista Mendelsohn, Program Director.*

Action: Presentation heard.

5. **ADOPTION OF THE CONSENT CALENDAR – Item Nos. 5A through 5G**

Moved, seconded (Abelson/Lyman; Ayes – Abelson, Jones, Lyman, and Potter ; Noes – None; Absent – Cheng) and carried to adopt Consent Calendar Item Nos. 5A through 5D, 5F and 5G as indicated below. Item No. 5E was withdrawn from the consent calendar at the request of the City Manager.

JOINT CITY COUNCIL/REDEVELOPMENT ITEM**A. Minutes for Approval**

Approve the April 6, 2009 Special Redevelopment Agency and Special Concurrent City Council/ Redevelopment Agency and April 8, 2009 Special Redevelopment Agency Meeting minutes.

Action: Approved minutes.

CITY COUNCIL ITEMS**B. Ordinance for Second Reading** *(First Reading April 6, 2009 – Ayes – Abelson, Jones, Lyman and Potter; Noes – None; Absent – Cheng)*

Waive further reading and adopt Ordinance 2009–02 amending El Cerrito Municipal Code Section 4.56.020(A) “Tax Imposed” establishing the Measure A (Swim Center) Parcel Tax rate for FY 2009–2010.

Action: Adopted Ordinance No. 2009–02.

C. Bike to Work Day Proclamation

Approve a proclamation declaring May 14, 2009 as Bike to Work Day in the City of El Cerrito in recognition of this City’s commitment to making the City of El Cerrito a more bike friendly City. The City council encourages everyone to consider bicycling on Bike to Work Day and beyond, to get registered to win prizes at 511.org, to participate in a bicycle safety class, and for those who can’t bicycle, to please remember to slow down and watch for bicyclists.

Action: Approved proclamation.

D. Earth Day Proclamation

Approve a proclamation proclaiming April 25, 2009 as Earth Day in the City of El Cerrito and encourage all residents and businesses to help make El Cerrito a greener, healthier, more sustainable place for all.

Action: Approved proclamation as revised.

E. Two Years Additional CalPERS Service Credit

Adopt a resolution designating another window period (from April 26, 2009 through July 25, 2009) within which miscellaneous and fire public safety employees may receive a two-year service credit if they retire; authorizing the Mayor to certify compliance with Government Code Section 20903; and directing the City Clerk to certify the Council’s action and compliance with Government Code Section 7505.

Action: Withdrawn by the City Manager and re-scheduled to a future meeting.

F. Memorandum of Understanding between Contra Costa County and Participating Contra Costa County Local Government Agencies for the Recovery Act: Distribution of the Edward Bryne Memorial Justice Assistance Grant

Adopt a resolution authorizing the City Manager or his designee to enter into a Memorandum of Understanding between the County of Contra Costa and participating Contra Costa County local government agencies for the distribution of the Recovery Act Funds: Edward Bryne Memorial Justice Assistance Act (JAG).

Action: Adopted Resolution No. 2009-17.

G. Growth Management Program Compliance Checklist

Adopt a resolution approving the Calendar Years 2006 & 2007 Growth Management Program (GMP) Compliance Checklist for allocation of Fiscal Years 2007-08 and 2008-09 Measure C Local Street Maintenance and Improvement Funds, and authorizing the City Manager to certify it for submittal to the Contra Costa Transportation Authority (CCTA).

Action: Adopted Resolution No. 2009-18.

6. PUBLIC HEARINGS

Presenter: Jennifer Carman, Planning Manager.

Zoning Ordinance Amendment

Conduct a public hearing and upon conclusion introduce by title, waive first reading and approve an ordinance amending Chapters 19.06, 19.14, 19.20, 19.26, 19.27, 19.47 and portions of the official zoning map contained in Title 19 ("Zoning Ordinance") of the El Cerrito Municipal Code with second reading scheduled for May 4, 2009.

Mayor Potter opened the public hearing. No speakers.

Moved, seconded (Jones/Abelson; Ayes – Abelson, Jones, Lyman, and Potter; Noes – None; Absent – Cheng) and carried to close the public hearing.

Action: Moved, seconded (Abelson/Jones; Ayes – Abelson, Jones, Lyman, and Potter; Noes – None; Absent – Cheng) and carried to approve first reading of Ordinance No. 2009-03 with direction to staff to correct a slight clerical omission in the zoning map prior to second reading of the ordinance. *Second reading scheduled for May 4, 2009.*

7. POLICY MATTERS

A. Updated Financial Policies

Adopt a resolution approving updated comprehensive financial policies that will serve as a guideline for operational and strategic decision making related to financial matters.

Presenter: Mary Dodge, Finance Director.

Action: Moved, seconded (Jones/Lyman; Ayes – Abelson, Jones and Lyman; Noes – Potter; Absent – Cheng) and carried to hold over discussion of the financial policies, including discussion of the 10% General Fund Reserve, to a future meeting of the City Council.

8. COUNCIL ASSIGNMENTS/LIAISON REPORTS

A. Mayor Potter in conjunction with the Assistant City Manager, announced the installation of a new art exhibition in the second floor city hall art gallery by local artist, Joan Keyes. The exhibition is oil paintings on linen. Mayor Potter encouraged everyone to visit the beautiful exhibition. Mayor Potter also reminded everyone that Bike to Work Day is on May 14 and encouraged all to participate.

B. Councilmember Abelson – No report.

C. Councilmember Cheng – Absent.

D. Councilmember Jones stated that the Integrated Waste Management Authority (IWMA) will celebrate its own Earth Day event on the same day as the City of El Cerrito event and queried whether staff would be present and noted that it would be nice for El Cerrito to be represented. Councilmember Jones also reported on an East Bay Municipal Utility District (EBMUD) presentation in which EBMUD reported that it generates 90% of its own energy at its plant and hopes to generate over 100% within the next five years and sell energy back to the grid. The IWMA is looking at opportunities to turn waste into energy and is looking at a way to handle food waste.

E. Councilmember Lyman reported on the Financial Advisory Board's (FAB) discussion of the Updated Financial Policies, the Investment Report and the CalPERS Service Credit. The FAB agreed to meet on May 5 to discuss the CalPERS Service Credit and will meet again on May 12. Councilmember Lyman reported on two Crime Prevention Committee Events. – Bicycle Safety Day on May 16 from noon to 4:00 p.m. in the DMV Parking Lot and National Night Out on August 4, 2009.

8. ADJOURNED SPECIAL CONCURRENT CITY COUNCIL/REDEVELOPMENT AGENCY MEETING at 9:23 p.m. in memory of Bruce King.

ROLL CALL

Present: Councilmembers Abelson, Jones, Lyman and Mayor Potter.

Absent: Councilmember Cheng

9. CONVENE SPECIAL CITY COUNCIL CLOSED SESSION MEETING

Mayor Potter convened the Special City Council Closed Session at 9:24 p.m.

ANNOUNCEMENT OF SPECIAL CITY COUNCIL CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Pursuant to Government Code Section 54956.9: One potential case

ORAL COMMUNICATIONS FROM THE PUBLIC – No speakers

RECESSED INTO SPECIAL CITY COUNCIL CLOSED SESSION at 9:27 p.m.

POSSIBLE REPORT OUT OF CLOSED SESSION – No reportable action.

ADJOURNED SPECIAL CITY COUNCIL MEETING at 9:35 p.m.

ROLL CALL

Present: Agency Members Abelson, Lyman, Potter and Chair Jones

Absent: Agency Vice-Chair Cheng

10. CONVENE SPECIAL REDEVELOPMENT AGENCY MEETING

Chairperson Jones convened the Special Redevelopment Agency meeting at 9:35 p.m.

ANNOUNCEMENT OF REDEVELOPMENT AGENCY CLOSED SESSION

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Government Code Section 54956.8

- 1) **Property:** 6431 and 6495 Portola Drive
El Cerrito, CA 94530
Agency Negotiators: Scott Hanin, Executive Director
Karen Tiedemann, Agency Counsel
Lori Treviño, Redevelopment Manager
Hilde Myall, Senior Housing Project Manager
Negotiating Party: Resources for Community Development (RCD)
Under Negotiation: Terms

- 2) **Property:** 11450 San Pablo Avenue
El Cerrito, CA 94530
Agency Negotiators: Scott Hanin, Executive Director
Mitch Oshinsky, Community Development Director
Lori Treviño, Redevelopment Agency Manager
Karen Tiedemann, Agency Counsel
Negotiating Party: Target Corporation
Under Negotiation: Terms

- 3) **Property:** 10070 San Pablo Avenue
Agency Negotiators: Scott Hanin, Executive Director
Karen Tiedemann, Agency Counsel
Lori Treviño, Redevelopment Manager
Negotiating Parties: Downey Street Productions
Under Negotiation: Terms of Payment

ORAL COMMUNICATIONS FROM THE PUBLIC

David Sawislak, Executive Director, Resources for Community Development (RCD), thanked the Redevelopment Agency and City Council for its support of the Ohlone Gardens Project and stated that RCD is fully committed to the involvement of the Hatlen Center for the Blind in this project, that he is highly confident that Hatlen Center will be in this project. The Hatlen Center Units cannot be funded by the affordable housing units alone and the project presents a financing challenge that cannot be ignored. Hatlen and RCD have a realistic agreement that allows the project to proceed if Hatlen is unable to raise the needed funds however RCD is confident that Hatlen will raise the funds and that it is RCD's plan and expectation that Hatlen will move forward. Mr. Sawislak stated that the project has a great site with transportation that will have national significance. Mrs. Sawislak stated that it presents a good financial deal for the City. The City's investment of \$3 million will leverage \$20 million.

Peggy Jen, Local Initiative Support Corporation (LISC), stated that LISC has a long history of working with RCD and has always met its commitments to LISC as a borrower. RCD is a very competent organization and LISC expects that RCD will work closely with the Hatlen Center to fulfill the vision of the city and meets its funding challenge however a contingency plan is in

place in this unpredictable environment.

Patricia Williams, Executive Director, Hatlen Center for the Blind, expressed the Center's gratitude for the Agency's \$3 million commitment to the project and thanked the Agency/Council for its support. With the City's commitment, investors will see the project as more than just a dream for the future. Ms. Williams described the donor plan and proposals and reported on progress made in submitting grants. A highly respected capital campaign consultant has told Ms. Williams that it is entirely possible that Hatlen will meet its goals. Ms. Williams obtained \$175,000 in pledges within two weeks which is close to 25% of the money due in October and noted the Center's broad web of support. By the end of July, the Hatlen Center will have spent close to \$100,000 on this project. She is confident that Hatlen can meet its commitment, thanked the Agency/Council and encouraged the Council's continued support.

Robert Brower, El Sobrante, described the history of prior Council discussions in open session and encouraged the Council to take this evening's discussion out of closed session.

Linda Moss, El Cerrito, expressed her sincere appreciation for the work performed by Council and staff on behalf of the Cerrito Theater and stated that the Cerrito Theater is a unique asset to the Community and encouraged the Council to support the Cerrito Theater.

Ken Berndt, El Cerrito, reported on the city's response to a public records act request and stated that the City has not provided him with the financial information requested. He said and that he could not get the Cerrito Theater figures to balance and commented a second time on the payment of delinquent taxes.

See also, Item No. 3 above for public comments.

Redevelopment Agency Chair Jones reiterated the Agency's April 8, 2009 report out of a Special Session, "Based on the notification received on April 7, 2009 from Downey Street Productions regarding their intent to close the Cerrito Speakeasy Theater, the Agency Board will not be going forward with consideration of proposed amendments to the lease and the DDLA for the Downey Street Productions on May 4, 2009 as previously reported. The Board has given direction to staff and Agency Counsel to work with Downey Street Productions on an orderly transition of the Cerrito Theater to a new operator as was suggested by the CEO of Downey Street Productions. In addition, the Agency Board gave direction to staff to begin the process of selecting a new operator. Staff was also given direction to begin work on the final determination of lease obligations for the Agency including the transfer of equipment and fixtures to Agency ownership. The Agency remains committed to the Cerrito Theater as a community asset."

RECESSED INTO SPECIAL REDEVELOPMENT AGENCY CLOSED SESSION at 10:55 p.m.

11. RECONVENED INTO OPEN SESSION WITH REPORT OUT OF CLOSED SESSION AND POSSIBLE ACTION at 10:32 p.m.

POLICY MATTERS

A. Consideration of Amendment to the Project Description of the Hatlen Center for the Blind & Family Housing Development on Portola Drive

Consider amending Agency Resolution No. 579 to revise the description of the Development making the participation of the Hatlen Center for the Blind in the project an optional condition of Agency approval of financial assistance for the Ohlone Gardens Mixed-Use Development.

Agency Chair Jones stated that no direction was given to staff in closed session.

Presenter: Hilde Myall, Senior Project Manager.

Speakers: David Sawislak, Resources for Community Development, addressed staff's concern that the entitlements are less assured if Hatlen's participation is not guaranteed and staff's statement that the Agency should hedge against this risk by not expending funds for the site until the entitlements are assured. This approach might make it difficult for the two non-profits to carry the project forward. If the Agency will not allow the site to be purchased now, Mr. Sawislak asked the Agency if it would work with RCD in helping to pay design and other costs by spending a small fraction of the \$3.5 million already committed.

Robert Brower, El Sobrante, stated that if the Agency confirmed its March 2 action and offered the loan immediately then the property acquisition will take place. The risk of acquiring the properties first is that Hatlen Center will not be able to raise the \$2.8 million and will be out of the project. Mr. Brower confirmed that it is possible for the Hatlen Center to raise the needed funds and told the Hatlen Center that he would be willing to offer a \$1.4 million guarantee secured by sale proceeds of another property that he is a trustee of. If the Agency acquires the properties now the risk that Hatlen is out of the project is very small. If property acquisition is deferred after the planning approvals and the escrow close deadline of July 1 passes and the property is not acquired then the entire project is over.

Lisa Montoya, Resources for Community Development, stated that RCD is confident that by January 2011 Hatlen will raise the full amount, however, RCD does need a fallback position.

Patricia Williams, Hatlen Center for the Blind, said the City's commitment of \$3.5 million and the Council's March 2 vote is crucial to raising funds.

Action: Moved and seconded (Potter/Abelson; Ayes – Abelson, Lyman, Potter and Jones; Noes – None; Absent – Cheng) and carried to deny the request to amend Agency Resolution 579 to revise the description of the Development making the participation of the Hatlen Center for the Blind in the project an optional condition of Agency approval of financial assistance for the Ohlone Gardens Mixed-Use Development.

The Redevelopment Agency Board (Absent – Cheng) directed staff to work with the Hatlen Center, RCD and Mr. Brower, including consideration of Mr. Brower's generous offer, and return to Council with options and terms of an agreement that facilitates moving the project forward and ensures that the Hatlen Center is a part of the project and that Hatlen is viable as a partner in the fund raising arrangements that RCD has with HUD. The Agency Board also directed staff to look at carrying cost options.

RECESS INTO REDEVELOPMENT AGENCY CLOSED SESSION TO DISCUSS AGENCY ITEM NO. 11(B) at 11:20 p.m.

**RECONVENE INTO OPEN SESSION WITH REPORT OUT OF CLOSED SESSION
AND POSSIBLE ACTION AS TO ITEM NO. 11(B) and ITEM NO. 10(2) at 12:09 p.m.**

B. Cerrito Theater

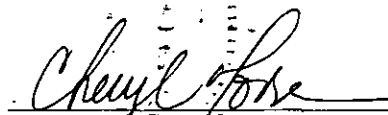
Consideration and possible authorization of the Agency Executive Director to provide financial assistance to Downey Street Productions in accordance with Agency Board direction.

Action: Chairperson Jones stated that staff was directed to come back with an agenda item on May 4 and that Council will take final action on Cerrito Theater at that time.

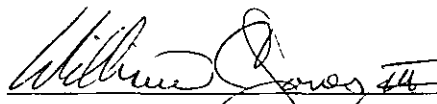
Report on Item 10(2) Target: Chairperson Jones announced that there is no reportable action regarding Target Corporation.

12. ADJOURNED SPECIAL REDEVELOPMENT AGENCY MEETING at 12:10 p.m.

This is to certify that the foregoing is a true and correct copy of the minutes of the Concurrent City Council and Redevelopment Agency, Special City Council Closed Session and Special Redevelopment Agency meetings of April 20, 2009 as approved by the El Cerrito City Council and Redevelopment Agency.


Cheryl Morse, City Clerk and Secretary to the Redevelopment Agency


Sandi M. Potter, Mayor


William C. Jones, III, Agency Chair